

TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 17-10
Date:	May 11, 2010
Keyword:	General
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Outreach and Promotional Materials, Advertising, Sponsorships, Employee Apparel, and Award Ceremonies Charged to Grant Awards and Subawards Funded through the Texas Workforce Commission**

PURPOSE:

To provide Local Workforce Development Boards (Boards) with information and guidance for:

- determining the allowability of costs charged to grant awards and subawards funded through the Texas Workforce Commission (Commission), specifically:
 - outreach and promotional materials;
 - advertising;
 - sponsorships;
 - employee apparel; and
 - award ceremonies;
- developing Board policies and procedures for the above costs; and
- documenting the above costs.

BACKGROUND:

Region IV Financial Management Bulletin (R4FMB) No. 02-10, issued by DOLETA's Dallas Regional Office on March 11, 2010, provides guidance for "determining allowability of advertising and public relations costs charged directly or indirectly to DOLETA grants." R4FMB No. 02-10 specifically addresses promotional materials, which include cups, pens, flash drives, and other materials.

In addition, Chapter 8 of the Commission's Financial Manual for Grants and Contracts (FMGC) provides federal and state cost principles governing the allowability of costs charged to grant awards. This includes cost principles set forth in Office of Management and Budget (OMB) Circulars, 48 C.F.R. Part 31, and Uniform Grant Management Standards (UGMS).

PROCEDURES:

Unallowable Outreach and Promotional Materials

Boards must be aware of the following:

NLF

- Outreach and promotional materials that solely promote an organization are unallowable uses of funds awarded by the Commission.
- Outreach and promotional materials solely promote an organization if the materials provide information only about that organization.

Examples of information that solely promotes an organization include any of the following, if it does not appear in conjunction with information that promotes program activities:

- Organization's logo
- Organization's name or brand name, including "Workforce Solutions"
- Organization's Web site address
- Contact information, such as addresses and phone numbers

Allowable Outreach and Promotional Materials

NLF

Boards must be aware that costs for outreach and promotional materials are considered public relations costs. The Uniform Grant Management Standards (UGMS) states, "'public relations' includes community relations and means those activities dedicated to maintaining the image of" the organization, "or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public."

Boards must not use grant award funds for public relations costs unless:

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- specifically required by the grant award;
- incurred for outreach efforts involving costs of communicating with the public on specific activities or accomplishments sponsored by the grant award (or subaward); or
- incurred as a cost of conducting general liaison with news media and government public relations officers necessary to keep the public informed on matters of public concern (e.g., notices of grant awards).

Boards must ensure that outreach and promotional materials are:

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- necessary and reasonable for the proper and efficient performance and administration of a program that purchased the materials;

- allocable to the program and grant award charged in accordance with relative benefits received (e.g., costs of outreach and promotional materials promoting multiple programs must be appropriately allocated among benefiting funding streams in accordance with the relative benefit received); and
- otherwise allowable in accordance with FMGC, Chapter 8.

Boards must ensure that:

NLF

- outreach and promotional materials promote program activities by clearly communicating to the public specific activities or accomplishments resulting from performance of grant awards; and
- there is no ambiguity on what service is being promoted.

Example 1: Outreach and promotional materials include a short phrase that informs the public about program activities, such as the following:

- Need Help Finding Qualified Workers?
- Linking Employers and Job Seekers
- Business Services
- Employment and Training Services
- Youth Services

Example 2: A Board distributes flash drives, or similar devices, that include documents—such as brochures, presentations, and flyers—that communicate information about program activities.

Boards that have unused inventories of outreach and promotional materials that do not clearly communicate specific award activities or accomplishments must:

NLF

- modify the materials to add information that promotes program activities; and
- ensure that future purchases include sufficient information to describe the program, as set forth in this WD Letter.

Boards may modify existing outreach and promotional materials by affixing a sticker (or for jump drives, and similar items, loading a file) that promotes program activities as described above.

LF

Advertising

Boards must be aware that UGMS defines “advertising costs” as “the costs of advertising media and corollary administrative costs.” Advertising media includes “magazines, newspapers, radio and television, direct mail, electronic or computer transmittals, and the like.”

NLF

Boards must be aware that the only allowable advertising costs are those incurred for the following:

NLF

- Recruitment of personnel required for the organization's performance of obligations arising under the grant award;
- Procurement of goods and services for performance of the grant award;
- Disposal of surplus materials acquired in the performance of the grant award (unless all disposal costs are reimbursed based on a predetermined amount); and
- Other specific purposes necessary to meet the requirements of the grant award.

Boards must ensure that advertising costs are necessary, reasonable, allocable, and otherwise allowable in accordance with FMGC, Chapter 8.

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Workforce Investment Act Nondiscrimination and Equal Opportunity Provisions

NLF

Boards must ensure that "recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I" of the Workforce Investment Act (WIA) "or the requirements for participation":

- indicate that the program or activity in question is an "equal opportunity employer/program";
- indicate that "auxiliary aids and services are available upon request to individuals with disabilities"; and
- "state the telephone number of the TDD/TTY [Telecommunications Device for the Deaf/Teletypewriter] or relay service" used by the Board (if such materials indicate that the Board can be reached by telephone).

Boards "that publish or broadcast program information in the news media must:

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- ensure that such publications and broadcasts state that the WIA Title I financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIA Title I financially assisted program or activity is prohibited by Federal law), and
- indicate that auxiliary aids and services are available upon request to individuals with disabilities."

Boards must not "communicate any information that suggests, by text or illustration, that" the Board "treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited ground specified in 29 C.F.R. §37.5, except as such treatment is otherwise permitted under Federal law or" C.F.R. Part 29.

NLF

Boards must be aware that WIA nondiscrimination and equal opportunity provisions at 29 C.F.R. §37.34:

- do not require nondiscrimination and equal opportunity information to be displayed on promotional items;
- do cover recruitment brochures and other materials ordinarily distributed or communicated to staff, clients, or the public at large, regardless of whether such information is provided orally or in writing, and electronically or on paper; and
- do cover program information published or broadcast in the news media.

Example 1: Jump drives used as promotional items are not required to display nondiscrimination and equal opportunity information (i.e., equal opportunity taglines), but brochures, presentations, flyers, and other files loaded on the drive to provide program information are subject to WIA nondiscrimination and equal opportunity provisions.

Example 2: Pens, pencils, and other promotional items are not required to display nondiscrimination and equal opportunity information.

Sponsorships

Boards must not use funds awarded by the Commission for contributions and donations—including cash, property, and services—to others. Examples of contributions and donations include, but are not limited to:

- contributions to campaigns or funds to help or assist specific causes;
- gifts to charities and other organizations; and
- similar actions.

Contributions and donations to others are unallowable uses of funds.

Boards must not use Commission-awarded funds to pay sponsorship fees—fees paid by a Board to cover all or part of the cost of an event produced by another organization(s), usually in exchange for public acknowledgement of Commission-awarded funds (e.g. acknowledgement as a sponsor, recognition in an overhead projection, banner display, short presentation about program activities and accomplishments, etc.) A sponsorship fee is a contribution and is unallowable.

Boards must be aware that the prohibition against use of funds for contributions and donations does not prohibit a Board from cost sharing in an event produced by another organization(s), provided such costs are allowable under Commission-funded awards.

Boards that cost share in an event produced by another organization(s) must ensure:

- the event is a necessary and reasonable cost for the performance of the award(s);

- the amount of Commission-awarded funds paid is commensurate with the extent that the Commission-funded awards and funding streams charged benefit from the event; i.e., the amount is allocable to the charged awards and funding streams; and
- the amount paid is supported by an invoice(s) for the Board's equitable share of actual event costs.

Boards must be aware that the prohibition against contributions and donations does not prevent Boards from using Commission-awarded funds to purchase a booth at a job fair or similar event if the purpose of the booth is to outreach customers.

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Employee Apparel

Boards must ensure that employee apparel costs are:

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- necessary and reasonable for the performance of the award;
- not used for goods or services that are for personal use; and
- allocable to the award (e.g., costs of employee apparel promoting multiple programs must be appropriately allocated among benefiting funding streams in accordance with the relative benefit received).

Boards must be aware that determinations on the allowability of employee apparel may consider such factors as:

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- whether a local procedure is in place that requires employees to wear the apparel for certain activities (e.g., job fairs, disaster-related events, youth group activities); and
- whether publicly identifying employees' affiliation with an organization through apparel is necessary for performance of the contract(s) that funded the purchase.

Boards must be aware that employee apparel may display an organization's logo or name without including information about specific activities or accomplishments resulting from performance of grant awards, because the employees wearing the apparel will provide such information.

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Award Ceremonies

Boards must be aware that the costs of award ceremonies include the costs of space, speaker fees, and plaques associated with the ceremony.

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Costs for award ceremonies must:

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- specifically support the grant award;
- be necessary and reasonable for the performance of the award; and
- be allocable to the award in accordance with relative benefits received.

Examples of award ceremonies that are likely to meet these conditions include those organized:

- for employer recognition, including:

- employers that consistently participate in the Texas workforce system or hire job seekers who participate in the Texas workforce system;
- employers who intermittently participate in the Texas workforce system, but have assisted in partnering on specific projects; and
- employers that have hired specific populations, like veterans or individuals with disabilities; and
- to recognize youth who complete a program (e.g., a science, technology, engineering, and math summer camp).

Policies and Procedures

Boards must ensure subrecipients are aware of and adhere to the guidance in this WD Letter and to applicable cost principles.

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When the applicable regulations are vague or do not address certain activities, it is recommended that Boards develop policies and procedures and establish a process for conducting the activities. (Boards may, but are not required to take such action in an open meeting.)

LF

Documentation

Boards must retain adequate source documentation to show:

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- the purpose or intent of an activity (e.g., apparel purchase, or promotional, advertising, or award ceremony activities);
- how the activity is necessary to the grant award;
- that the activity costs are reasonable;
- what is included in the costs, for example:
 - what was included in the activity (e.g., a script or description of what was being promoted); and
 - detailed specifics (e.g., when, where, how long, etc.); and
- when appropriate, that a “fair share” was allocated to the grant award.

INQUIRIES:

Direct inquiries regarding this WD Letter to the Director of Financial Operations at Fiscal.TA@twc.state.tx.us.

RESCISSIONS:

None

REFERENCE:

29 C.F.R §37.34

United States Department of Labor Employment and Training Administration, Region IV, Dallas Regional Office, Financial Management Bulletin No. 02-10, issued March 11, 2010, and entitled “Determining allowability of advertising and public relations costs charged directly or indirectly to DOL-ETA grants.”

Office of Management and Budget (OMB) Circular A-21, issued May 10, 2004, and entitled “Cost Principles for Educational Institutions”

OMB Circular A-87, issued May 10, 2004, and entitled “Cost Principles for State, Local, and Indian Tribal Governments”

OMB Circular A-122, issued May 10, 2004, and entitled “Cost Principles for Non-Profit Organizations”
48 C.F.R., Part 31
Uniform Grant Management Standards, Part II, Attachments A and B
Financial Manual of Grants and Contracts, Chapter 8

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”